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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,787

08/17/2003

Larry W. Collum

1786

7590

07/07/2006

Richard L. Bigelow, Esq.
203 Tremont Street
Newington, CT 06111

EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,787

Applicant(s)

COLLUM ET AL.

Examiner

Stephen L. Blau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,6,7,10,11,13 and 14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,9 and 12 is/are allowed.
- 6) ☒ Claim(s) 1,5 and 8 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. The examiner has stopped considering claim 13 due to the status identifier being "withdrawn".

Claim Objections

2. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The loft of claim 8 (44 degrees) is not in the range of the claim 5 (46-47 degrees) which it depends on.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveque de Vilmorin in view of Lundberg and admitted prior art.

Leveque de Vilmorin discloses a club having a head with a loft 34-35 degrees, a lie of 66-69 degrees (Col. 2, Lns. 46-55), a loft of 44 degrees, a lie of 68 degrees (Col. 2, Lns. 56-60) and a shaft having a length equal to that of an average iron (Col. 4, Lns. 44-51).

Leveque de Vilmorin lacks a metallic shaft having a length of 34.5 and 37.5 inches or 36.5 inches. Lundberg discloses a typical set of irons for men (1-11 irons) having lengths from 35 to 39.5 inches and a set of irons for women (1-9 irons) having lengths from 34.5 to 38.5 inches (Table I). The average length of this set of irons for men would be 37.25 inches and for women using 1-9 irons would be 36.5 inches. In view of the patent of Lundberg it would have been obvious to modify the club of Leveque de Vilmorin to have a shaft length of 37.25 inches in order to utilize a typical set of irons for men in determining an average iron length. In view of the patent of Lundberg it would have been obvious to modify the club of Leveque de Vilmorin to have a shaft length of 36.5 inches in order to utilize a typical set of irons of 1-9 irons for women in determining an average iron length.

The applicant admits that it is known in the art to have to have metallic shafts for heads by not contesting the examiner's official notice. Therefore it would have been obvious to modify the club of Liao to have a metallic shaft in order to have a rigid shaft for a golfer who is strong and swings a club fast.

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5. Claims 1, 5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liao in view of Lundberg and admitted prior art.

Liao discloses a loft of 34-39 degrees, a loft of 46-47 degrees, a loft of 44 degrees, a lie of 66-69 degrees (Claim 1) and a shaft length of 34 inches or so with it shorter than the shaft of the conventional iron golf club [0023]. Liao does not disclose what the "or so" range is. Clearly one skilled in the art would have selected a suitable variations from 34 inches in which .5 inch is included.

Liao lacks a metallic shaft having a length of 34.5. Lundberg discloses a typical set of irons for men (1-11 irons) having lengths from 35 to 35.5 inches (Table I). In view of the patent of Lundberg it would have been obvious to modify the club of Mendenhall to have a shaft length of 34.5 inches in order to vary the shaft length from 34 inches yet maintain the length less than a shaft of a conventional set or irons for men.

The applicant admits that it is known in the art to have to have metallic shafts for heads by not contesting the examiner's official notice. Therefore it would have been obvious to modify the club of Liao to have a metallic shaft in order to have a rigid shaft for a golfer who is strong and swings a club fast.

Allowable Subject Matter

6. Claims 4, 9 and 12 are allowed. None of the prior art discloses or renders as obvious the combination of loft angle, lie angle and shaft length. Though claim 9 is allowed, claims 10-11 which were previously withdrawn could be allowed claims as well

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if claims 10-11 are corrected to read on the generic claim 10 by correcting the antecedent problems (i.e. the striking face, the wooden golf club head, the wood, etc...).

Response to Arguments

7. With respect to claim 1, the argument it is improper to combine the references of Leveque de Vilmorin and Lundberg in that these teach towards a full range of irons than can be used for golf shots ranging from several hundred yards to close to a green is disagreed with. Leveque de Vilmorin teaches one club which the examiner is modifying to address claim 1. Lundberg was used to show an average club length in the art which Leveque de Vilmorin requires. Lundberg was not used to disclose a full range of irons. With respect to claim 1, the arguments that it is improper to combine the references of Leveque de Vilmorin and Lundberg in that these teach towards clubs that can be used effectively for golf shots by golfers smaller in stature than the average golfer and shots by these clubs require the full range of hip, arm, and leg motion normally observed in drives and long iron play are disagreed with. Claim 1 is an apparatus claim. Weight is given to what an apparatus is and not how it is used or why it was made. Leveque de Vilmorin in view of Lundberg discloses the claimed structure though it developed the club for different reasons. The argument that claim 5 as amended overcomes the rejection of Liao in view of Lundberg and Examiner's Official is disagreed with. The loft of lie of claim 5 are still in the range as taught by Liao.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Blau whose telephone number is (571) 272-4406. The examiner can normally be reached on Mon - Fri 10:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb/ 23 June 2006



STEPHEN BLAG
PRIMARY EXAMINER